

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DR. STEWART LUCAS MURREY,

Plaintiff,

-against-

BRANDYOURSELF.COM, INC., a limited liability company, TOM VITOLO, an individual; and CHRISTIAN TYRON, an individual,

Defendants.

ANALISA TORRES, District Judge:

Plaintiff *pro se*, Stewart Lucas Murrey, brings this action against Defendants Brandyourself.com, Inc., Tom Vitolo, and Christian Tryon, alleging violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; California's unfair competition law, Cal. Bus. & Prof. Code § 17200 *et seq.*; and California's statutory and common law right of publicity; and claims for common law fraud and civil conspiracy. *See* FAC, ECF No. 9. On December 22, 2020, Defendants moved to dismiss the first amended complaint. *See* ECF No. 63.¹ On June 3, 2022, the Court granted Defendants' motion to dismiss but allowed Plaintiff until July 6, 2022, to move for leave to file a second amended complaint. *See* ECF No. 99. On July 6, 2022, Plaintiff timely moved for leave to amend and attached his proposed second amended complaint. ECF No. 100.² On July 8, 2022, Plaintiff also moved to transfer the action back to the Central District of California. ECF No. 102. On July 12, 2022, the Court referred the motions to the Honorable James L. Cott. ECF No. 104.

On September 23, 2022, Judge Cott issued a Report and Recommendation (the "R&R") recommending that Plaintiff's motion to amend be denied, that the motion to transfer be denied as moot, and that Defendants should be dismissed with prejudice. ECF No. 108 at 10. Having received no objections to the R&R, the Court reviewed the R&R for clear error and found none. *Oquendo v. Colvin*, No. 12 Civ. 4527, 2014 WL 4160222, at *2 (S.D.N.Y. Aug. 19, 2014).

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21 Civ. 320 (AT) (JLC)

ORDER

¹ On July 13, 2020, Plaintiff filed this action in the Central District of California, suing www.cheaterreport.com and Does 1 through 10 for defamation and violations of California's statutory and common law right of publicity. ECF No. 1. The Honorable Percy Anderson dismissed the complaint for lack of subject matter jurisdiction, ECF No. 7, and on August 3, 2020, Plaintiff filed the first amended complaint against Aaron Minc, Minc Law, Domingo J. Rivera, Rivera Law Group, PLC, PRVT L.L.C., Elizabeth Jordan, Internet Reputation Control, Anthony Will, Digital Revolution LLC, Brandyourself.com, Inc., Tom Vitolo, Christian Tryon, and John Does 1–10. *See* FAC. On December 18 and 28, 2020, Judge Anderson dismissed the claims against all defendants other than Brandyourself.com, Inc., Tom Vitolo, and Christian Tryon for lack of personal jurisdiction or failure to timely complete service. ECF No. 62 at 12; ECF No. 66. On January 13, 2021, Judge Anderson ordered the action transferred to this district, but declined to rule on the pending motion to dismiss. ECF No. 75 at 6. The case was then assigned to the undersigned on February 10, 2021. Dkt. Entry 2/10/2021.

² The Notice of Motion to File an Amended Complaint, which was filed on July 11, 2022, ECF No. 103, appears to be the same as the motion at ECF No. 100.

The Court, therefore, ADOPTS the R&R in its entirety. Accordingly, Plaintiff's motion to amend is DENIED; Plaintiff's motion to transfer is DENIED as moot; and Defendants are dismissed with prejudice.

The Clerk of Court is directed to terminate the motions at ECF Nos. 100, 102, and 103, mail a copy of this order to Plaintiff *pro se*, and close the case.

SO ORDERED.

Dated: February 6, 2023
New York, New York



ANALISA TORRES
United States District Judge